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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/821,764 | 04/09/2004 | Donald DeMotte | 16676 | 1442 |

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BUTZEL LONG
DOCKETING DEPARTMENT
100 BLOOMFIELD HILLS PARKWAY
SUITE 200
BLOOMFIELD HILLS, MI 48304

EXAMINER

TRAN, KHOI H

ART UNIT PAPER NUMBER

3651

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,764

Applicant(s)

DEMOTTE ET AL.

Examiner

Khoi H. Tran

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3-8 and 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 9-12, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04/04.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.


KHÔI H. TRAN
PRIMARY EXAMINER

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species III, claims 1, 2, 9, 10, 11, 12, 19, and 20 in the reply filed on 08/26/2005 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims are 1, 2, 9-12, 19, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Brust et al. 6,871,116 (refers to as Brust '116).

Brust '116 discloses a method for stacking cases on a pallet per claimed invention. The method comprises the steps of: supplying cases via conveyors; defining rules for selecting cases from the conveyors to be placed on respective pallet (full layer rule, height rules for stability, and/or exception case rule); determining physical

characteristics of cases in the conveyor including dimensions of a case base and case height (at least column 4, line 55); determining available locations on the pallet where a case on the conveyor can be placed (at least column 5, lines 66-67); applying the rules sequentially in a variable prioritized order to at least a portion of the cases and the available locations (Figure 2); identifying a selected case that satisfies at least one of the rules and a corresponding location on the pallet for the selected case (at least column 7, lines 16 –17); and using an industrial robot to place the selected case on the pallet in corresponding location.

In regards to claim 11, Brust '116 method further comprises: repeatedly applying the rules in a variable prioritized order to the case on the conveyor until the pallet is filled.

In regards to claims 2 and 12, Brust '116 method further comprises: determining the rule that identified the last selected case that was placed on the pallet and reapplying the determined rule before applying another rule to the case (method loop in Figure 2, from block 230-260).

In regards to claims 9 and 19, Brust '116 method further comprises: continually updating available regions on the pallet where a case can be placed as the cases are placed on the pallet; and continually replenishing the conveyor with cases after one of the cases is placed on the pallet.

In regards to claim 20, Brust '116 identifying step comprises recognizing one of the pallet cases having a case height equal to a case height of a selected case on the

conveyor and a corresponding position adjacent the one pallet case for the selected case on the conveyor (i.e. height rule for stability).

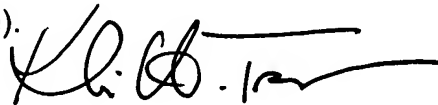
Conclusion

Additional references made of record and not relied upon are considered to be of interest to applicant's disclosure: see attached USPTO Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H. Tran whose telephone number is (571) 272-6919. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoi H Tran
Primary Examiner
Art Unit 3651

KHT
10/11/2005